

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

In Care of:
 Federal Correctional Institution
 9595 West Quincy Avenue
 Littleton, CO 80123
 Terry-Le Roy: Cassidy
 In Propria Persona Sui Juris

APR 17 2006

at 4 o'clock and 20 min. M
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CASE NO. CR-02-00133-ER
	)	NOTICE OF MOTION TO VACATE
Plaintiff,	)	JUDGEMENT IS VOID
vs.	)	FRCivP RULE 60 (b) (4)
	)	SPECIAL VISITATION
TERRY LEROY CASSIDY,	)	TIME:
	)	DATE:
Defendant.	)	JUDGE:

NOTICE OF MOTION TO VACATE JUDGEMENT IS VOID
 FRCivP RULE 60 (b) (4)
 SPECIAL VISITATION

COMES NOW, Terry-Le Roy: Cassidy, In Propria Persona Sui Juris and in
 Special Visitation, as the Authorized Representative of the Artificial
 Corporate entity, cited above as the Defendant TERRY LEROY CASSIDY, and
 moves this Court on behalf of the Defendant to Vacate Judgement based upon
 the the facts set forth in the Motion to Vacate.

DATED: 4/4/06

UCC 1-207

All Rights Reserved Without Prejudice

by: Terry Le Roy Cassidy Agent
 Terry-Le Roy: Cassidy, Sui Juris
 Authorized Representative of Defendant

(1)

Notice of Motion to Vacate

In Care of:
 Federal Correctional Facility
 9595 West Quincy Avenue
 Littleton, CO 80123
 Terry-Le Roy: Cassidy
 In Propria Persona Sui Juris

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR NO. 02-00133-ER
)	
Plaintiff,	)	MOTION TO VACATE
)	
vs.	)	JUDGEMENT IS VOID
)	
TERRY LEROY CASSIDY,	)	RULE 60 (b) (4)
)	
Defendant.	)	SPECIAL VISITATION

MOTION TO VACATE/JUDGEMENT IS VOID

COMES NOW, Terry-Le Roy: Cassidy, In Propria Persona Sui Juris, as the Authorized Representative of the Artificial Corporate entity, cited as Defendant TERRY LEROY CASSIDY in the above captioned matter, and moves this Court on behalf of the Defendant to Vacate Judgement based upon the fact Judgement in this case is Void ab initio as well as being satisfied.

PARTIES TO THE ACTION

1.) TERRY LEROY CASSIDY: is not a flesh and blood, breathing man. It is an Artificial Corporate Construct of Law, ens legis, a juristic person. It is a citizen of the United States, and a Debtor. See attached exhibit "A" one UCC Financing Statement filed August 18, 2004, in the Washington State Department of Licensing UCC Division, file #2004-231-5637-1, stamped 1073231----See exhibit "B" one Private Agreement # TLC-062570, dated June 25, 1970.----See exhibit "C" one Hold Harmless Indemnity Agreement dated

(1)

MOTION TO VACATE/JUDGEMENT IS VOID

June 25, 1970, Number TLC-062570-HHIA.----Take Judicial Notice of the fact there is no authority that allows for a breathing flesh and blood man's name to be written in all capital letters. Every authority describes such breathing flesh and blood entities as being identified by the appellation being spelled with the first letter only in capital letters. The exception to this is corporations registered with the Secretary of State.

2.) Terry-Le Roy: Cassidy: Is not the entity described above. Even though the two names sound alike, they do not describe the same legal or lawful entity. This appellation describes the breathing flesh and blood man, who is an inhabitant of the Common Law states of the Union, a Sovereign American, unenfranchised into the Corporate UNITED STATES or UNITED STATES OF AMERICA, and is not a citizen of the United States/U.S./UNITED STATES/UNITED STATES OF AMERICA or U.S.A.. He has god-given inalienable rights under the Common Law and is not subject to statute. He is not an Accommodation Party nor Surety for another. See exhibits A, B, C, D, E AND F.

3.) UNITED STATES OF AMERICA: is unidentified in this matter. Its identity has been kept a secret. The identity was questioned in the "NOTICE AND DEMAND TO DISMISS FOR LACK OF CRIMINAL JURISDICTION" filed October 22, 2004, and again in a questionnaire attached to a Writ of Habeas Corpus filed on or about July 18, 2005, and a third time in Admissions filed in the same aforementioned Writ of Habeas Corpus. To date the identity remains a mystery, and the Defendant has not been allowed to know who the accuser is. Government and the Court have not identified the identity of the Plaintiff, and has successfully avoided identifying the Plaintiff. When Judge Rafeedie answered the above MOTION TO DISMISS, he failed to identify the Plaintiff and denied me the right to speak, or access the record, offer proofs, etc.

(2)

JUDGEMENT TO VACATE/JUDGEMENT IS VOID

MOTION IS TIMELY

There is no time limit on FRCivP Rule 60 (b) (4) attack on judgement as void, one-year limit applicable to some FRCivP 60 (b) motions is expressly inapplicable, and requirement that motion be made within reasonable time cannot be enforced with regard to FRCivP 60 (b) (4) motion. (1) Motion in this instance is within the one year time limit regardless.

DUTY OF THE COURT

It is the duty of this Court to act upon this MOTION TO VACATE, since it originated in this Court and it should have recognized the lack of jurisdiction, violations of the Constitution, that were allowed to occur, either through neglect, mistake or inadvertence, to this Sovereign American, Secured Party/Creditor being held captive as surety for the Defendant Debtor. Furthermore, it is well within this Court's authority to right that which is wrong.

JUDGEMENT IS VOID

The Judgement in the above captioned case is and has been void ab initio for the following manifested facts:

1. No territorial jurisdiction of the United States established in any Court record: Territorial Jurisdiction was challenged in the MOTION TO DISMISS FOR LACK OF CRIMINAL JURISDICTION filed October 22, 2004. Judge Rafeedie is quoted as saying in the transcript of the that hearing on page 13, lines 17-21, "And if there is a sufficient proof that at least one of the conspirators committed an overt act in furtherance of the conspiracy within the territorial jurisdiction of the United States. That comes from United States v. Winter, 509 Fed 2d 975". Judge Rafeedie states "if there is sufficient proof". Where is the "sufficient proof." In what document, what page, where has the prosecution

established "territorial jurisdiction"? In the case cited by Judge Rafeedie, even though some defendants were outside the territorial jurisdiction of the United States, the others, working in concert were within the territorial jurisdiction of the United States.

The "territorial jurisdiction" of the United States is defined in Title 18 USC, § 7, entitle "Special Maritime and territorial jurisdiction of the United States defined.

"The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:"

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building".

In the Plaintiff's pleadings they reference themselves as the Federal Government. In Criminal prosecutions, where the Federal Government is the moving party, it must not only establish ownership of the property upon which the crime was allegedly committed, but also produce the documentation that the States have ceded to it jurisdiction over that property. "Where lands are aquired without such consent, the possession of the United States, unless political jurisdiction be ceded to them in some other way, is simply that of an ordinary proprietor". (2)

The States jurisdiction is co-extensive with its territory; and co-extensive with its legislative powers. (3) Federal jurisdiction extends only over the areas wherein it possess the "exclusive jurisdiction", and this is a foundational principle incorporated into all subsequent decisions regarding the extent of federal jurisdiction. Any contrary decision would destroy the purpose, intent, and meaning of the entire U.S. Constitution,

(4)

and constitute "self-evident" proof of an intent upon tyranny toward the citizens of this country. (4) "It is not the offense committed, but the place in which it is committed, which must be out of the jurisdiction of the State". (5) "Special provision is made in the Constitution for the cession of jurisdiction from the States over places where the federal government shall establish forts or other military works. And it is only in these places, or in the territories of the United States, where it can exercise a general jurisdiction." (6) "Because, the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain, within the limits of a State or elsewhere, except in the cases in which it is expressly granted." (7) "The state is therefore entitled to the sovereignty and jurisdiction over all the territory within her limits, subject to the common law." (8)

In essence, there is a plethora of case law, that hold, the jurisdiction of any particular State is co-extensive with it's borders or territory, and anyone or property located or found therein are subject to such jurisdiction; state jurisdiction being superior. Federal jurisdiction results only from a conveyance of State jurisdiction, to the federal government, for lands owned or otherwise possessed by the federal government, and thus federal jurisdiction is extremely limited in nature, scope and fact. Remember also, that there is no federal jurisdiction if there is no grant or cession of jurisdiction by the State, to the federal government. Clearly, therefore, "federal territorial jurisdiction of the United States" exists only in Washington D.C, the federal enclaves within the States that have been ceded to the United States, territories and possessions of the United States.

Additionally, Title 18 USC, § 371, cites under its "Historical and Legislative Notes" that it is applicable in the Canal Zone. Title 18 USC, § 371 is an Act of Congress. Acts of Congress are only applicable in the

federal zone, as described in the previous paragraph. An Act of Congress is not applicable in the State zones. This is confirmed in the FRCrP 54 (c), which states;

(c) Application of Terms. As used in these rules the following terms have the designated meanings.

"Act of Congress" includes any act of Congress locally applicable to and in force in the District of Columbia, in Puerto Rico, in a territory or in an insular possession.

Therefore, based upon the foregoing, these are the questions that are before this court in determining it's territorial jurisdiction.

1. Which defendant or defendants were the one(s) that committed the alleged overt act in the territorial jurisdiction of the United States?

2. What is the geographical location that has been determined to be the scene of the crime? Legal description, address, etc.. _____

3. Has this property been ceded to the United States by a State? _____

4. When was this property ceded? _____

5. Does the United States possess documentation of ownership? _____

6. Has this possession by the United States been published? _____

7. Was this documentation entered into the record as evidence by the prosecution as required by law to establish territorial jurisdiction?

8. What document/records in this matter contain the information of these foregoing questions? _____

"It is axiomatic that the prosecution must always prove territorial jurisdiction over a crime in order to sustain a conviction therefor." (9)
"There is no presumption in favor of jurisdiction, and the basis for jurisdiction

must be affirmatively shown." (10) "All courts are duty bound to take judicial notice of territorial jurisdiction of the offense, even if those facts are not formally put into the pleadings." (11) "Federal criminal jurisdiction is never presumed; it must always be proven; and it can never be waived." (12) "No jurisdiction exists in the United States to enforce federal criminal laws until consent to accept jurisdiction over acquired lands has been published and filed in behalf of the United States, as provided in 40 USC, § 255, and the fact that the State authorized the government to take and excercise jurisdiction was immaterial." (13)

The prosecution in this case has failed to prove territorial jurisdiction. The prosecution has failed to present documentary proof of ownership of any ceded land, failed to provide publication of purchase and has failed to answer the question of territorial jurisdiction posed in the "MOTION TO DISMISS FOR LACK OF CRIMINAL JURISDICTION" filed October 22, 2004. Without proof in the record of territorial jurisdiction the crime has not been made out and the judgement is void ab initio.

"No sanctions can be imposed absent proof of jurisdiction." (14) "A motion to vacate judgement under Rule 60 (b)(4) may be brought at any time ...however, when the court is faced with a void judgement, it has no discretion and the judgement MUST be vacated whenever the lack of jurisdiction comes to light." (15) "If underlying judgement is void, it is per se abuse of discretion for district court to deny movant's motion to vacate void judgement under FRCivP 60 (b)(4)." (16)

This Court's judgement is void for want of territorial jurisdiction being proven upon the record in the instant matter.

(7)

MOTION TO VACATE/JUDGEMENT IS VOID

The geographic jurisdiction of the United States is very limited and well defined. Federal geographic jurisdiction is limited to those places the United States is Sovereign, to wit:

Article 1, Section 8, Clause 17.

"To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten square miles) as may by cession of particular states, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings...."

Article IV, Section 3, Clause 2.

"The Congress shall have the power to dispose of and make all needful regulations respecting the territory or other property belonging to the United States...."

The only exceptions to these limitations are the Commerce Clause, and there is not language in 18 USC, § 371 pertaining to commerce and neither has the prosecution invoked the Commerce Clause in this matter. The other is Congress' specific authority over the crimes of Counterfeiting, Piracy and Espionage. These are the only authorities in the entire Constitution where Congress has power, via an Act of Congress, over "We the People".

If the Court proceeds without jurisdiction in the instant case, he/she becomes personally liable for such action. The Court lacks jurisdiction to to have adjudicated this action and the Judgement is Void ab initio.

Relief

As per the Federal Rule of Civil Procedure 60 (b), this case is required to be vacated because "Judgement is Void".

Declaration

I swear under the pains and penalties of perjury under the laws of the United States of America, the foregoing is true, correct and complete.

Dated: *April 4, 2006*

All Rights Reserved Without Prejudice UCC 1-207

by: *Terry Le Roy Cassidy, Sui Juris*
(8)

MOTION TO VACATE/JUDGEMENT IS VOID